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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/849,875 06/18/97 LARSEN

D CU-1561JJC

LM01/0511

EXAMINER

JOHN J. CHRYSSTAL  
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LEE, C

ART UNIT

PAPER NUMBER

2733

DATE MAILED:

05/11/99

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>08/849,875</b>	Applicant(s) <b>Larsen et al</b>
	Examiner <b>Andrew Lee</b>	Group Art Unit <b>2733</b>

Responsive to communication(s) filed on Jun 18, 1997

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-45 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims 1-45 are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-16, data flow congestion prevention or control, classified in class 370, subclass 229.
  - II. Claims 17-45, a transceiver, classified in class 375, subclass 219.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, Invention I has separate utility as a flow control. See MPEP § 806.05(d).

3. The inventions are distinct, each from the other because of the following reasons:  
Inventions II and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, Invention II has separate utility such as of apparatus of the transceiver. See MPEP § 806.05(d).

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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5. A telephone call was made to Richard Streit on 5/6/99 to request an oral election to the above restriction requirement, but did not result in an election being made.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 703)305-1500. The examiner can normally be reached on Monday-Friday from 8:30 AM - 6:00PM, Eastern Time.

If attempts to reach the examiner by telephone are not successful, the examiner's supervisor, **Mr. Jason Chan**, can be reached on 703)305-4729.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, DC 20231

or faxed to: (703) 308-9051, for formal communications intended for entry **or**  
(703) 308-5403, for informal or draft communications,  
please label "**PROPOSED**" or "**DRAFT**".

Hand-delivered responses should be brought to:

Crystal Park II, 2121 Crystal Drive, Arlington, Virginia Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703)305-3900.

Andrew Lee

May 6, 1999



**HUY D. VU  
PRIMARY EXAMINER**